



Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

FOIA Request re: Fetal Abnormality abortion funding

1 message

Josh Hetzler <josh@familyfoundation.org>

Tue, Mar 26, 2019 at 4:28 PM

To: "Hilbert, Joseph (VDH)" <Joe.Hilbert@vdh.virginia.gov>

Cc: Todd Gathje <todd@familyfoundation.org>, Victoria Cobb <victoria@familyfoundation.org>

Joe,

Please see the attached request and supplementary document. I am happy to discuss it further and clarify if needed.
Thank you.

Josh Hetzler, Esq.

Legislative Counsel

The Family Foundation of Virginia

O: 804-343-0010 (Ext. 235)

C: 804-896-2300



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2 attachments**Sample Redacted Form - Application for VA Dept of Health State Funded Abortion.pdf**
164K**2019-3-26 - TFF FOIA Request to VDH re Va. Code 32.1-92.2.pdf**
311K

March 26, 2019

Mr. Hilbert,



Pursuant to the Virginia Freedom of Information Act (Va. Code § 2.2-3700, *et seq.*), I hereby request the following documents from the Virginia Department of Health (VDH):

All documents stating the rationale of the Virginia Department of Health's physicians' review for determining whether to approve or not approve requests for state-funding of certain abortions through the form entitled "Application for Virginia Department of Health State Funded Abortions Under Sections 32.1-92.1 and 32.1-92.2 of Code of Virginia (1950), As Amended" ("Application Form") that were submitted to and completed by the Virginia Department of Health during the calendar years 2017 and 2018.

On all such Application Forms, I request that the following information found be provided, **but for all other information not listed below to be redacted from the records:**

Section 1

Date of Application

Date of Procedure

Type of Facility (whether abortion facility or hospital)

Section 2

2A: Number of weeks pregnant and the date

2C: Summary of diagnostic procedure results for applications under Section 32.1-92.2 (with any identifying information redacted therefrom)

Section 3

Whether or not the certifying physician is "Approved to provide abortions"

Section 4

Whether approved or not approved by both Physician Reviewers

Rationale of Primary and Secondary Physician Reviewer

Dates

Section 5

Signature line of OFHS Administration

Please note that I am NOT requesting any information revealing the personal identifying information of any patient or of any physician, nor any patient diagnostic procedure results, nor the names of any medical facilities, nor any information whatsoever pertaining to "Section 32.1-92.1: Cases of Rape or Incest". My inquiry is narrowly limited to dates, type of facility, whether or not the certifying physician is approved to provide abortions, and the basis and rationale for VDH's decision whether or not to approve a request for state funds pursuant to Virginia Code Section 32.1-92.2, which is contained entirely on one two-page form created by the Department. I have also requested to see the Department's signature line in Section 5 *solely* to determine whether the expenditure was ultimately approved by VDH. However, I am willing that the signature be redacted where one is present, and for the line to be left blank where there was no signature. For my purposes, that would suffice to indicate whether final approval was granted.

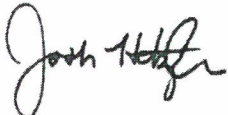
I believe you will find this arrangement agreeable, especially in light of § 2.2-3704.01 (Records containing both excluded and nonexcluded information; duty to redact.), which provides that:

No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.

For the sake of clarity and for your convenience, I have included in my request a scanned attachment of the Application Form, on which I have indicated the information I am seeking (by yellow highlights), along with redactions for the information I am not seeking (by marking out in black).

If any of the requested records can be reproduced or copied in electronic form, we request such identified records to be produced via e-mail or on a USB drive or computer disk, as may be most efficient and useful. Thank you in advance for timely responding to this request. Please do not hesitate to contact me if you have any questions or require additional information. I am happy to clarify the types of records I am seeking and attempt to reach a reasonable agreement about your response to any specific request set forth above.

Respectfully,

A handwritten signature in black ink, appearing to read "Josh Hetzler". The signature is fluid and cursive, with the first name "Josh" being more prominent than the last name "Hetzler".

Josh Hetzler, Esq.
Legislative Counsel

**APPLICATION FOR VIRGINIA DEPARTMENT OF HEALTH STATE FUNDED ABORTION
UNDER SECTIONS 32.1-92.1 and 32.1-92.2 of CODE OF VIRGINIA (1950), AS AMENDED
FAX APPLICATION TO: (804) 864-7771**

**Section 1: Patient Applicant Information
To be completed by Certifying Physician or Abortion Facility**

Date of Application: _____ Name of Patient Applicant: _____
Date of Birth: _____ Address: _____
Medicaid Number: _____
Date of Procedure: _____ City/County of Residence: _____
Name and type of Facility: _____ ☐ Abortion ☐ Hospital
Name of Certifying Physician: _____

**Section 2: Medical Information and Certification
All Certifying Physicians must complete section 2A.
Certifying Physicians must choose and complete either 2B or 2C
All Certifying Physicians must print name, sign and date**

2A: I certify that my examination of the patient applicant and/or her medical record indicates that she is _____ weeks pregnant as of _____ (date)

Section 32.1-92.1: Cases of Rape or Incest

2B: I hereby request state funds under the provisions of § 32.1-92.1 of the **Code of Virginia** (1950) as amended. This pregnancy is the direct result of either rape or incest. The patient has verified that this event has been reported to a law enforcement or public health agency.

Date of Occurrence: _____ Date Reported: _____
Reported to: _____

Section 32.1-92.2: Cases of gross and totally incapacitating physical and/or mental deformity

2C: I hereby request state funds under the provisions of § 32.1-92.2 of the **Code of Virginia** (1950) as amended. Attach all diagnostic procedure results:

☐ Amniocentesis ☐ Ultrasound ☐ Blood Test ☐ Other

Summary of diagnostic procedure results:

I certify that my examination of the patient applicant and review of diagnostic tests indicate that the fetus will be born with a gross and totally incapacitating physical deformity and/or a gross and totally incapacitating mental deformity.

Print name: _____

Certifying physician: _____

Date: _____

Section 3: Verification

Certifying physician license #: [REDACTED] License expiration date: [REDACTED]

Facility license #: [REDACTED] Approved to provide abortions: ____ YES ____ NO

Section 4: VDH Physician Review

☐ Approved ☐ Not Approved

Rationale: _____

OFHS Deputy Director, or designee, Primary Physician Reviewer: [REDACTED] Date: _____

☐ Approved ☐ Not Approved

Rationale: _____

Secondary Physician Reviewer: [REDACTED] Date: _____

Section 5: Acknowledgement

Acknowledgement: "The Virginia Department of Health guarantees payment to the facility named in the application for performing an abortion on the individual named herein as the 'Patient Applicant'. Such payment shall be limited to the usual reimbursement rate established by the Virginia Medical Assistance Program (Medicaid), and shall constitute "full and final payment for such services." VDH reserves the right to deny payment if there is violation of the Code of Virginia.

OFHS Administration: _____

1. Fax this application to: (804) 864-7771
2. Submit bills on CMS 1500 to:
Reproductive Health Unit
Virginia Department of Health
109 Governor St.
9th Floor
Richmond, VA 23219
3. Provide approved copy of this application to the patient applicant
4. Provide the abortion facility a signed copy for billing purposes



COMMONWEALTH of VIRGINIA

Department of Health

P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

April 1, 2019

Josh Hetzler, Esq.
The Family Foundation of Virginia
919 East Main Street
Suite 1110
Richmond, VA 23219

Dear Mr. Hetzler:

This will acknowledge receipt of your Virginia Freedom of Information Act (FOIA) request dated March 26, 2019, and received by the Virginia Department of Health (VDH) on March 26, 2019. You request all documents stating the rationale of the VDH physicians' review for determining whether to approve or not approve requests for state-funding of certain abortions through the form titled "Application for Virginia Department of Health State Funded Abortions Under Sections 32.1-92.1 and 32.1-92.2 of Code of Virginia (1950), As Amended" that were submitted to and completed by VDH during calendar years 2017 and 2018.

VDH has forty-eight (48) application forms responsive to your request. These forms are medical records and are being withheld in their entirety pursuant to Virginia Code §§ 2.2-3705.5(1) and 32.1-127.1:03.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph J. Hilbert", with a long horizontal line extending from the end of the signature.

Joseph J. Hilbert
Deputy Commissioner for Governmental
And Regulatory Affairs



Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Re: FOIA Request re: Fetal Abnormality abortion funding

1 message

Josh Hetzler <josh@familyfoundation.org>

Tue, Apr 2, 2019 at 12:26 PM

To: "Hilbert, Joseph" <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

Joe,

This is to acknowledge receipt of VDH's response. Thank you.

Josh Hetzler, Esq.

Legislative Counsel

The Family Foundation of Virginia

O: 804-343-0010 (Ext. 235)

C: 804-896-2300



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On Mon, Apr 1, 2019 at 6:00 PM Hilbert, Joseph <joe.hilbert@vdh.virginia.gov> wrote:

Josh:

VDH's response to your recent FOIA request is attached.

On Tue, Mar 26, 2019 at 4:29 PM Josh Hetzler <josh@familyfoundation.org> wrote:

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--

Joseph Hilbert
Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006



Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Fwd: FOIA Request re: Fetal Abnormality abortion funding

1 message

Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Wed, Apr 24, 2019 at 5:22 PM

To: Oliver Norman azj69842 <norm.oliver@vdh.virginia.gov>, "Tysinger, Allyson (DBHDS)" <atysinger@oag.state.va.us>

Cc: Gena Berger <gena.berger@governor.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>

I would like to discuss this with you at your early convenience. thanks

----- Forwarded message -----

From: **Josh Hetzler** <josh@familyfoundation.org>

Date: Wed, Apr 24, 2019 at 5:21 PM

Subject: Re: FOIA Request re: Fetal Abnormality abortion funding

To: Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

Joe,

Would you be willing to explain in any greater detail why the 48 application forms you referenced are being withheld in their entirety, especially given the following clarifications we provided in our request?:

- "Please note that I am NOT requesting any information revealing the personal identifying information of any patient or of any physician, nor any patient diagnostic procedure results, nor the names of any medical facilities,..."
- "My inquiry is narrowly limited to dates, type of facility, whether or not the certifying physician is approved to provide abortions, and the basis and rationale for VDH's decision whether or not to approve a request for state funds pursuant to Virginia Code Section 32.1-92.2..."

We also specifically made reference to § 2.2-3704.01, which provides that "No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law." Can you explain why VDH is unwilling to provide redacted copies of those application documents (such as the sample version I attached) to allow for access of the narrow subset of information we've requested (or even any portion thereof)?

You cited § 2.2-3705.5 as one of two Code sections justifying VDH's complete denial, yet the opening paragraph of that Code section plainly indicates that § 2.2-3704.01 applies to the health records (subsection 1) listed therein: "Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01." Assuming that the application document in question does include some information that qualifies as "health records" as that term is defined in § 32.1-127.1:03 (the other Code section VDH cited), the opening paragraph of § 2.2-3705.5 clearly implies that "health records" can be contained within a public record that also contains other non-excluded public records, which would necessitate the redacting of such record(s) in accordance with § 2.2-3704.01. That is all we are asking for here.

I would very much appreciate a more compelling explanation from VDH for its denial, or otherwise for VDH to now provide the public records we have requested. Thank you.

Josh Hetzler, Esq.

Legislative Counsel

The Family Foundation of Virginia

O: 804-343-0010 (Ext. 235)

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--

Joseph Hilbert
Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006

--

Joseph Hilbert
Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006



Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Re: FOIA Request re: Fetal Abnormality abortion funding

1 message

Josh Hetzler <josh@familyfoundation.org>

Thu, Apr 25, 2019 at 12:50 PM

To: "Hilbert, Joseph" <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

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Josh Hetzler, Esq.

Legislative Counsel

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On Thu, Apr 25, 2019 at 12:42 PM Hilbert, Joseph <joe.hilbert@vdh.virginia.gov> wrote:

Josh:

Thanks for your note.

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We also specifically made reference to § 2.2-3704.01, which provides that "No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law." Can you explain why VDH is unwilling to provide redacted copies of those application documents (such as the sample version I attached) to allow for access of the narrow subset of information we've requested (or even any portion thereof)?

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Josh Hetzler, Esq.

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Joseph Hilbert
Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006

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Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006



Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Fwd: FOIA Request re: Fetal Abnormality abortion funding

1 message

Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Thu, May 9, 2019 at 1:36 PM

To: Oliver Norman azj69842 <norm.oliver@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, "Tysinger, Allyson (DBHDS)" <atysinger@oag.state.va.us>, Gena Berger <gena.berger@governor.virginia.gov>

Draft Response to Family Foundation - FOR YOUR REVIEW

Josh:

As previously stated by VDH, the records requested are health records exempt in their entirety from mandatory disclosure under Virginia Code § 2.2-3705.5(1).

You may wish to review a recent FOIA Advisory Council opinion http://foiacouncil.dls.virginia.gov/ops/19/AO_03_19.htm. In this opinion, the requester asked for student test scores with the names and identifying information of students redacted in accordance with the redaction statute. The FOIA Advisory Council said that scholastic records were exempt and that "redacting or otherwise removing a student's name and other personal information does not make the scholastic record a nonexempt record that must be disclosed as the record would still contain information about specific individuals, whether identified by name or not." The FOIA exemption for scholastic records is similar to the FOIA exemption for health records.

Sincerely,

----- Forwarded message -----

From: **Josh Hetzler** <josh@familyfoundation.org>

Date: Thu, Apr 25, 2019 at 12:50 PM

Subject: Re: FOIA Request re: Fetal Abnormality abortion funding

To: Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

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Re: FOIA Request re: Fetal Abnormality abortion funding

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Josh Hetzler <josh@familyfoundation.org>

Fri, May 24, 2019 at 2:28 PM

To: "Hilbert, Joseph" <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

Joe,

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Josh Hetzler, Esq.

Legislative Counsel

The Family Foundation of Virginia

O: 804-343-0010 (Ext. 235)

C: 804-896-2300



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On Thu, Apr 25, 2019 at 12:50 PM Josh Hetzler <josh@familyfoundation.org> wrote:

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- "My inquiry is narrowly limited to dates, type of facility, whether or not the certifying physician is approved to provide abortions, and the basis and rationale for VDH's decision whether or not to approve a request for state funds pursuant to Virginia Code Section 32.1-92.2..."

We also specifically made reference to § 2.2-3704.01, which provides that "No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law." Can you explain why VDH is unwilling to provide redacted copies of those application documents (such as the sample version I attached) to allow for access of the narrow subset of information we've requested (or even any portion thereof)?

You cited § 2.2-3705.5 as one of two Code sections justifying VDH's complete denial, yet the opening paragraph of that Code section plainly indicates that § 2.2-3704.01 applies to the health records (subsection 1) listed therein: "Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01." Assuming that the application document in question does include some information that qualifies as "health records" as that term is defined in § 32.1-127.1:03 (the other Code section VDH cited), the opening paragraph of § 2.2-3705.5 clearly implies that "health records" can be contained within a public record that also contains other non-excluded public records, which would necessitate the redacting of such record(s) in accordance with § 2.2-3704.01. That is all we are asking for here.

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Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Re: FOIA Request re: Fetal Abnormality abortion funding

1 message

Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Fri, May 24, 2019 at 2:35 PM

To: Josh Hetzler <josh@familyfoundation.org>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

Josh:

My apologies for the delay in responding. As previously stated by VDH, the records requested are health records exempt in their entirety from mandatory disclosure under Virginia Code § 2.2-3705.5(1).

You may wish to review a recent FOIA Advisory Council opinion http://foiacouncil.dls.virginia.gov/ops/19/AO_03_19.htm. In this opinion, the requester asked for student test scores with the names and identifying information of students redacted in accordance with the redaction statute. The FOIA Advisory Council said that scholastic records were exempt and that "redacting or otherwise removing a student's name and other personal information does not make the scholastic record a nonexempt record that must be disclosed as the record would still contain information about specific individuals, whether identified by name or not." The FOIA exemption for scholastic records is similar to the FOIA exemption for health records.

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- "My inquiry is narrowly limited to dates, type of facility, whether or not the certifying physician is approved to provide abortions, and the basis and rationale for VDH's decision whether or not to approve a request for state funds pursuant to Virginia Code Section 32.1-92.2..."

We also specifically made reference to § 2.2-3704.01, which provides that "No provision of this chapter is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law." Can you explain why VDH is unwilling to provide redacted copies of those application documents (such as the sample version I attached) to allow for access of the narrow subset of information we've requested (or even any portion thereof)?

You cited § 2.2-3705.5 as one of two Code sections justifying VDH's complete denial, yet the opening paragraph of that Code section plainly indicates that § 2.2-3704.01 applies to the health records (subsection 1) listed therein: "Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01." Assuming that the application document in question does include some information that qualifies as "health records" as that term is defined in § 32.1-127.1:03 (the other Code section VDH cited), the opening paragraph of § 2.2-3705.5 clearly implies that "health records" can be contained within a public record that also contains other non-excluded public records, which would necessitate the redacting of such record(s) in accordance with § 2.2-3704.01. That is all we are asking for here.

I would very much appreciate a more compelling explanation from VDH for its denial, or otherwise for VDH to now provide the public records we have requested. Thank you.

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Joe,

This is to acknowledge receipt of VDH's response. Thank you.

Josh Hetzler, Esq.

Legislative Counsel

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Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
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Hilbert, Joseph <joe.hilbert@vdh.virginia.gov>

Re: FOIA Request re: Fetal Abnormality abortion funding

1 message

Josh Hetzler <josh@familyfoundation.org>

Wed, Jun 5, 2019 at 8:20 PM

To: "Hilbert, Joseph" <joe.hilbert@vdh.virginia.gov>

Cc: Vanessa Walker Harris <vanessa.walkerharris@vdh.virginia.gov>, Forlano Laurie bjc81795 <laurie.forlano@vdh.virginia.gov>, Emily Yeatts <emily.yeatts@vdh.virginia.gov>, Victoria Cobb <victoria@familyfoundation.org>

Joe,

While we respectfully disagree with VDH's decision to withhold the redacted documents/information we've requested (see, in part, below), I want to acknowledge and thank you for your reply.

I will make just one comment here about the notable difference between the statutory exclusion the FOIA Advisory Council opinion addresses in § 2.2-3705.4 (i.e. scholastic records) as compared to the health records exclusion in § 2.2-3705.5. As you can see in these respective statutes (partially copied below), the scholastic records exclusion specifically spells out that it pertains to "Scholastic records *containing information concerning identifiable individuals*". (emphasis added) By contrast, the health records exclusion contains no such modifying or analogous phrase (compare highlighted portions). Therefore, even if the FOIA Advisory Council opinion (AO-03-19) is correct as to the applicability of § 2.2-3704.01 in that instance, that opinion cannot be fairly relied upon as being somehow analogous to the health records exemption VDH has cited in denying our request. For this and other reasons, we cannot accept the reasons you have provided for denying our request, and we humbly implore you to reconsider.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. ...

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Josh Hetzler, Esq.

Legislative Counsel

The Family Foundation of Virginia

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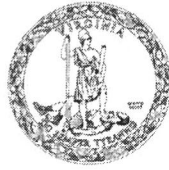


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Deputy Commissioner for Governmental and Regulatory Affairs
Virginia Department of Health
804-864-7006

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COMMONWEALTH of VIRGINIA
Department of Health

January 3, 2019

Josh Hetzler, Esq.
The Family Foundation of Virginia
919 East Main Street
Suite 1110
Richmond, VA 23219

Dear Mr. Hetzler:

This will acknowledge receipt of your Virginia Freedom of Information Act (FOIA) request submitted to the Virginia Department of Health (VDH) dated January 2, 2019, and received on January 2, 2019. The following requested records are being entirely withheld because their release is prohibited by law, and also because there is a specific FOIA exemption allowing them to be withheld:

- Forty-eight (48) SFA 12 application forms and supporting documents submitted to VDH in FY2017 and FY2018 by certifying physicians pertaining to the funding of abortions where a fetus is believed to have an incapacitating physical deformity or mental deficiency or where a pregnancy occurs as a result of rape or incest and which is reported to a law enforcement or public health agency are being entirely withheld pursuant to Code of Virginia sections 32.1-41, 32.1-127.1:03, and 2.2-3705.5(1); and
- Eighty-two (82) CMS 1500 Health Insurance Claim Forms for approved abortions submitted to VDH's Reproductive Health Unit and paid in FY2017 and FY2018 are being entirely withheld pursuant to the Health Information Portability and Accountability Act, 45 C.F.R. Part 164 (HIPAA), Code of Virginia sections 32.1-41, 32.1-127.1:03, and 2.2-3705.5(1), the Centers for Medicare & Medicaid Services regulation at 42 C.F.R. § 431.305, and 12 Va. Admin. § Code 30-20-90.

VDH has no "documents stating the reasons for such applications and their corresponding denials or approvals," other than the documents delineated above.

Sincerely,

A handwritten signature in cursive script that reads "Emily Yeatts".

Emily Yeatts
Reproductive Health Unit Supervisor
Virginia Department of Health
109 Governor Street
Richmond, VA 23219

February 10, 2017

Josh Hetzler, Esq.
Legislative Counsel
The Family Foundation of Virginia
919 E. Main Street, Ste. 1110
Richmond, Virginia 23219

Dear Mr. Hetzler:

Enclosed please find documents provided by the Virginia Department of Health (VDH) in response to your Virginia Freedom of Information Act request submitted to VDH dated February 7, 2017.

The following documents are enclosed:

- In response to items 1, 2 and 5 of your request, a document titled "Virginia Department of Health Summary of Payments to Planned Parenthood for FY2015-FY2016 and FY2017 as of February 7, 2017;" and
- In response to items 3 and 4 of your request, a document titled "State Funded Abortions SFY 2015-2016."

Sincerely,

Joseph J. Hilbert
Director of Governmental and Regulatory Affairs

cc: The Honorable William A. Hazel

Encs.

VIRGINIA DEPARTMENT OF HEALTH
SUMMARY OF PAYMENTS TO PLANNED PARENTHOOD
FOR FY2015 – FY2016 AND FY2017 AS OF FEBRUARY 7, 2017

FY2015 (July 1, 2014- June 30, 2015)

The following payments were made to a Planned Parenthood organization in accordance with the terms of a contract requiring the entity to target and screen persons at risk of acquiring sexually transmitted diseases (STDs), appropriately treat and manage persons diagnosed with an STD using current CDC Treatment Guidelines and provide and promote STD risk-reduction to persons via counseling and educational materials:

Entity Name	Amount
Planned Parenthood Health Systems, Inc	400.00
Planned Parenthood of Southeastern Virginia	394.40
Virginia League of Planned Parenthood	394.40

The following payment was made to a Planned Parenthood organization for the purchase of a Contraceptive Training Kit:

Entity Name	Amount
Planned Parenthood of Metropolitan Washington DC	110.95

FY2016 (July 1, 2015 - June 30, 2016):

The following payments were made to a Planned Parenthood organization in accordance with the terms of a contract requiring the entity to target and screen persons at risk of acquiring sexually transmitted diseases (STDs), appropriately treat and manage persons diagnosed with an STD using current CDC Treatment Guidelines and provide and promote STD risk-reduction to persons via counseling and educational materials:

Planned Parenthood South Atlantic	\$400.00
Virginia League for Planned Parenthood	\$10,340.80

The following payment was made to a Planned Parenthood organization for the purchase of a Contraceptive Training Kit:

Planned Parenthood of Metropolitan Washington DC	250.45
--	--------

FY2017 (JULY 1, 2016 – FEBRUARY 7, 2017)

No payments have been posted payable to any Planned Parenthood organizations as of February 7, 2017.

State funded abortions SFY 2015-2016

During FY 2015, between July 1, 2014 and June 30, 2015, a total of 28 applications for state funds were received. 27 applications were for funding pursuant to §32.1-92.2 of the Code of Virginia, and 25 were approved. One application was for funding pursuant to §32.1-92.1 of the Code of Virginia and was approved. A total of \$44,597 was expended; \$32,992 was paid for seven of the procedures and an additional \$11,605.88 paid for five of the procedures approved in fiscal year 2014.

During FY 2016, between July 1, 2015 and June 30, 2016, a total of 31 applications were received. All 31 applications were for funding pursuant to §32.1-92.2 of the Code of Virginia, and 28 were approved. \$28,981 was expended for 28 procedures and an additional \$8,786 was paid for four of the procedures approved in fiscal year 2015.

Code Section 32.1-92.1					
SFY	2015	2016			
# applications	1	0			
# approved	1	0			
Total of amount paid	No invoice received	0			
Code Section 32.1-92.2					
SFY	2015	2016			
# applications	27	31			
# approved	25	28			
Total amount paid	\$32,992	\$28,981			
TOTAL (32.1-92.1) + (32.1-92.2)	2015	2016			
# applications	28	31			
# approved	26	28			
Total amount paid	\$44,597.88 (\$11,605.88 paid for 5 approved in 2014)	\$37,767 (\$8,786 paid for 4 approved in 2015)			

